

**CITY OF FREDERICK  
ZONING BOARD OF APPEALS  
MEETING MINUTES  
March 19, 2013**

<b>MEMBERS PRESENT:</b>	<b>MEMBERS ABSENT:</b>	<b>STAFF PRESENT:</b>
<b>Mr. Racheff Ms. Colby Mr. Patchan Mr. Philip Dacey</b>	<b>Mr. Marvin Kennedy</b>	<b>Gabrielle Dunn, Division Manager of Current Planning Brandon Mark, City Planner Lea Ortiz, Office Manager</b>

**ANNOUNCEMENTS**

For the benefit of the audience and especially the applicants, Mr. Racheff, Chairman, introduced everyone by name and department and explained the Zoning Board of Appeals process.

**APPROVAL OF MINUTES:**

**A. February 26, 2013**

**MOTION:** Ms. Colby moved to approve the February 26, 2013 hearing minutes as published.  
**SECOND:** Mr. Patchan  
**VOTE:** 4-0

**GENERAL PUBLIC COMMENT**

There was no general comment.

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**CASES TO BE HEARD**

**B. ZBA13-87NCI, Substitution of Non-Conforming Use, 329 East Second Street**

**MOTION:** Mr. Patchan moved to continue ZBA13-87NCI to the April 23, 2013 public hearing.  
**SECONDED:** Ms. Colby  
**VOTE:** 4-0

**C. ZBA13-88V, Variance, 1102 Evergreen Avenue**

Mr. Mark read the entire staff report into the record.

## **PUBLIC COMMENTS:**

Mr. Lee resides at 119 East 5<sup>th</sup> Street and is in support of this application.

Applicant stated they could use alternative building materials to construct the driveway thereby, reducing the amount of impervious surface on the lot to a ratio less than 50%, and obviating the need for the requested variance to the ISR.

**MOTION:**    **Mr. Patchan moved to approve ZBA13-88V for the construction of a one-story handicap accessible in-law suite that does not meet the front and rear setback in the R6 zoning district, a variance of 5' from the 25' front yard setback and a 18' variance from the rear yard setback of 30' according to Section 405, Table 405-1 of the Land Management Code based on the following findings and fact:**

1. That the lot shape and orientation of the subject property represent conditions unique to the property when compared with other properties in the same district and block and that those unique conditions present practical difficulties in meeting the 30' rear yard and 25' front yard setback requirement.
2. The variances are not contrary to the public interest in that the provision of light, air, and appropriate access to the structure and neighboring properties is not impeded by the addition.
3. That the requested variances will allow for the construction of an addition to the structure which is consistent with the scale of an addition that would be permitted on similarly situated properties in the R6 district and that the Dimensional and Density Regulations set forth by the LMC do not allow for the construction of a reasonably sized addition to the structure.
4. That the literal interpretation of the LMC deprives the Applicant the right to build a reasonable addition.
5. That the granting of the variances from Section 405, Table 405-1 will not confer on the Applicant any special privileges that are denied by the LMC to other lands or structures in the same district. Other lands in this district are configured much differently and when the required setbacks are applied to those properties, the resulting building envelope is more conducive to typical improvements.
6. That the granting of the variances will be in harmony with the general purpose and intent of the LMC by allowing handicap accessibility to the primary structure.
7. That the Applicant has not created the situation which necessitates the variances.

**SECONDED:** Ms. Colby

**VOTE:**            4-0

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**The meeting adjourned at 8:00 p.m.**

Respectfully submitted,  
Lea M. Ortiz